REMARKS

This paper is submitted in response to the Office action mailed on July 12, 2006. This paper amends independent claim 26 and cancels dependent claims 7, 8 and 22. Accordingly, after entry of this Amendment and Response, claims 1-6, 9-21 and 23-36 will be pending with claims 1, 15 and 26 being independent.

I. Claim Objections

Claim 26 is objected to due to the term "fan" having improper antecedent basis. Claim 26 is amended herein to overcome this rejection.

II. Claim Rejections Under 35 U.S.C. § 112

Claims 7, 8, and 22 are rejected under 35 U.S.C. § 112. Claims 7, 8, and 22 are cancelled herein rendering this rejection moot.

III. Claim Rejections Under 35 U.S.C. § 103

This section addresses the 35 U.S.C. § 103 rejections to independent claims 1 and 15 and some related dependent claims under the combination of Patel, O'Grady and Fitch. Next, this section addresses the 35 U.S.C. § 103 rejection to independent claim 26 and some related dependent claim under Patel, O'Grady and Chahroudi. Finally, all remaining dependent claim rejections are addressed.

A. Claims 1-5, 9-13, 15-17, 19, 21 and 23 are patentable over the combination of Patel, O'Grady and Fitch

Claims 1-5, 9-13, 15-17, 19, 21 and 23 are rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Pub. US 2003/0147216 to Patel et al. (hereafter "Patel"), in view of U.S. Patent No. 6,170,561 to O'Grady (hereafter "O'Grady") and U.S. Patent No. 6,317,321 to Fitch (hereafter "Fitch"). The Office action, however, fails to set forth a proper prima facie case of obviousness as there is no motivation to combine Patel with O'Grady and Fitch.

In order to prevent improper hindsight-based obviousness analysis, a proper prima facie case of obviousness requires that there "be some suggestion or motivation, within the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or to combine reference teachings." *MPEP § 2143.* "It is insufficient to establish obviousness that separate elements existed in the prior art, absent some teaching, suggestion, in the prior art to combine the references." *Arkie Lures, Inc. v. Gene Larew Tackle, Inc.,* 43 U.S.P.Q.2d 1294 (Fed. Cir. 1997). An improper hindsight obviousness determination, where the invention taught by the inventor is used against the inventor, is especially possible for relatively less technologically complex inventions. *See Ruiz v. A.B. Chance Co.*, 57 USPQ 2D 1161 (Fed. Cir. 200). There are three possible sources for a

motivation to combine references: "the nature of the problem to be solved, the teaching of the prior art, and the knowledge of person in the ordinary skill in the art." *MPEP § 2143.01.*

It is respectfully submitted that the prior art references are improperly combined because they do not address the problem solved by the present invention. Independent claims 1 and 15 provide for a system and a method, respectively, involving an electronics enclosure housing electrical components and further including "a plurality of phase change material layers disposed upon the interior surface, at least one of the layers exposed to the airflow within the enclosure generated by the fan for absorbing heat from the airflow upon a failure associated with the heat exchanger, a first phase change material layers having a phase change temperature different from a second of the phase change material layers" or one similar. When an electronics enclosure's primary cooling system fails the temperature may rise so rapidly that electronics within the enclosure may shut down or fail without sufficient time for an orderly shut down. *See Present Application*, paragraph 0005. The claimed invention solves the problem associated with providing enough time to orderly shut down the electronics by providing "a plurality of phase change material layers disposed upon the interior surface" which absorbs the heat, after a cooling failure, for a sufficient amount of time to allow an orderly shutdown of the electronics.

Patel is directed to the problem of adequately cooling electronics within an enclosure. Patel does provide for two heat exchangers. However, the heat exchangers are not redundant, but are in fact both used to properly cool the enclosure, one located at the top of the enclosure and one located at the bottom in separate warm air flows. *See, e.g., Patel* Figs. 1 and 2. Accordingly, Patel in fact suffers from the problem solved by the present invention in that Patel provides no solution to the problem of when one or both of the cooling systems fail and some or all of the electronic components begin overheating.

O'Grady is directed to the problems associated with a cooling system failure in a data center or other room housing electrical enclosures. However, O'Grady does not address the unique problems associated with a failure of the cooling system for a discrete enclosure housing electrical components. As with Patel, any discrete enclosure within the data center of Patel would suffer from the same problems solved by the claimed invention. Namely, O'Grady does not solve the problems associated with the failure of a cooling system for a discrete enclosure within the data center, but only the failure of the room's cooling system. Accordingly, as neither Patel nor O'Grady address the problems solved by the independent claims of the present invention, there is no motivation to combine these references to arrive at the claimed invention.

Further, Fitch is directed to the fundamental problem of efficiently and effectively extracting heat from increasingly smaller semiconductor packages and related compact housings where conventional heat sinks are inadequate. *See Fitch Background,* Col. 1,

lines 33-50. Accordingly, Fitch proposes replacing a conventional heat sink with sufficient phase change material to maintain a proper operating temperature of the semiconductor packages. The Fitch device does not even have a heat exchanger that can fail. *See Fitch Summary*, Col. 2, lines 2-30. Accordingly, Fitch does not address or recognize the problems associated with providing for an orderly shutdown of the electronic device when a heat exchanger fails. Accordingly, this provides further evidence that there is no suggestion to combine Patel, O'Grady, and Fitch to arrive at the claimed invention.

We further refer to the arguments set forth in the first response to office action dated December 20, 2005. Namely, combining Patel with O'Grady would substantially change the operation of Patel rendering the combination insufficient to make out a prima facie case of obviousness.

For at least the reasons set forth above, it is believed that independent claims 1 and 15 are patentable under 35 U.S.C. § 103 over the combination of Patel, O'Grady and Fitch. Dependent claims 2-5, 9-13, 16-17, 19, 21 and 23 include all of the limitations of the independent claims and are thus patentable over the cited combination for at least the same reasons as the independent claims.

B. Claims 26-29, 31-33 and 35 are patentable over the combination of Patel, O'Grady and Chahroudi

Claims 26-29, 31-33 and 35 are rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Pub. US 2003/0147216 to Patel et al (hereafter "Patel"), in view of U.S. Patent No. 6,170,561 to O'Grady (hereafter "O'Grady") and U.S. Patent No. 4,259,401 to Chahroudi (hereafter "Chahroudi"). Claim 26 is an independent claim from which the other rejected claims 27-29, 31-33 and 35 depend. Claim 26 addresses and solves the same basic problem as the invention of claims 1 and 15. Accordingly, for at least the reasons set forth in the discussion of claims 1 and 15, it is respectfully submitted that the combination of Patel and O'Grady is improper as Patel and O'Grady do not address the problems solved by the invention of claim 26, and indeed suffer from the problems solved by the invention of claim 26.

Moreover, Charoubi addresses the problems associated with heating and cooling buildings. Charoubi simply has nothing to do with the problems associated with the problems solved by the present invention. Accordingly, for this additional reason, it is respectfully submitted that the combination of Patel, O'Grady and Charoubi is insufficient to render a prima facie case of obviousness of claim 26.

C. All other rejected dependent claims are patentable over the recited combinations of prior art

All additional rejections to dependent claims 6, 18, 14, 25, 20 and 24 are based on at least the combination of Patel, O'Grady and Fitch. Accordingly, it is respectfully submitted

that these dependent claims are patentable over the combination of Patel, O'Grady, Fitch and whatever additional reference is cited for at least the same reasons as independent claims 1 and 15.

All additional rejections to dependent claims 30, 24 and 36 are based on at least the combination of Patel, O'Grady and Charoubi. Accordingly, it is respectfully submitted that these dependent claims are patentable over the combination of Patel, O'Grady, Charoubi and whatever additional reference is cited for at least the same reasons as independent claims 26.

IV. Conclusion

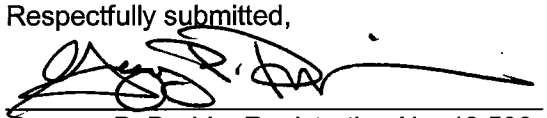
The Applicant thanks the Examiner for his thorough review of the application. The Applicant respectfully submits the present application, as amended, is in condition for allowance and respectfully requests the issuance of a Notice of Allowability as soon as practicable.

This Amendment is submitted contemporaneously with a petition for a two-month extension of time in accordance with 37 CFR § 1.136(a). Accordingly, please charge Deposit Account No. 04-1415 in the amount of $450.00, for two-month extension of time fee. The Applicant believes no further fees or petitions are required. However, if any such petitions or fees are necessary, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 accordingly.

If the Examiner should require any additional information or amendment, please contact the undersigned attorney.

Dated: 12 DEC 2006

Respectfully submitted,



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